

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**BECKLEY DIVISION**

MARCUS DWAYNE PARHAM,

Petitioner,

v.

CIVIL ACTION NO. 5:17-cv-02016

B. J. MEEKS, *Warden*,

Respondent.

**MEMORANDUM OPINION AND ORDER**

On March 27, 2017, the Petitioner, appearing *pro se*, filed an *Application Under 28 U.S.C. § 2241 for Writ of Habeas Corpus By a Person in State or Federal Custody* (Documents 1) and a *Memorandum in Support of Motion Pursuant to Title 28 United States Code §§ 2241 & 2255(e)* (Document 2). By *Standing Order* (Document 4) entered on March 28, 2017, this action was referred to the Honorable Cheryl A. Eifert, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636.

On October 4, 2018, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 15) wherein it is recommended that this Court transfer the Petitioner's *Application* (Document 1) and *Memorandum* (Document 2) to the United States Court of Appeals for the Fourth Circuit pursuant to 28 U.S.C. § 1631, and dismiss this action from the


Court's docket. Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were due by October 22, 2018.

Neither party has timely filed objections to the Magistrate Judge's *Proposed Findings and Recommendation*. The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and the Petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984).

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation*, and **ORDERS** that the Petitioner's *Application* (Document 1) and *Memorandum* (Document 2) be **TRANSFERRED** to the United States Court of Appeals for the Fourth Circuit pursuant to 28 U.S.C. § 1631, and that this action be **DISMISSED** from the Court's docket.

The Court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge Eifert, counsel of record, and any unrepresented party.

ENTER: October 29, 2018

  
IRENE C. BERGER  
UNITED STATES DISTRICT JUDGE  
SOUTHERN DISTRICT OF WEST VIRGINIA